



City of Gaithersburg

31 South Summit Avenue
Gaithersburg, Maryland 20877

Mayor and City Council Regular Session Minutes City Hall - Council Chambers Tuesday, April 2, 2013

A Mayor and City Council Regular Session was called to order with Mayor Katz presiding. Council Members present: Jud Ashman, Cathy C. Drzyzgula, Henry F. Marraffa, Michael A. Sesma, Ryan Spiegel. Staff present: City Manager Tony Tomasello, City Attorney Lynn Board, Economic Development Director Thomas Lonergan, Municipal Clerk Doris Stokes, Director of Public Works Jim Arnoult, Director of Planning and Code Administration John Schlichting, Director of Community and Public Relations Britta Monaco, Lead, Long Range Planning Rob Robinson, Community Planning Director Trudy Schwarz, Sustainability Planner Dyan Backe, Environmental Specialist Meredith Strider, Recreation Program Supervisor Maura Dinwiddie.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

The Pledge was led by Ana Rios, 9th grade student at Gaithersburg High School.

III. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

IV. APPROVAL OF MINUTES

A. Work Session Held March 11, 2013

Motion was made by Jud Ashman, seconded by Michael A. Sesma, that the minutes of the Work Session held March 11, 2013, be approved.

Vote: 5-0

B. Regular Session Held March 18, 2013

Motion was made by Michael A. Sesma, seconded by Cathy C. Drzyzgula, that the minutes of a Regular Session held March 18, 2013, be approved.

Vote: 5-0

V. CONSENT**A. Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract for Additional Electrical Service for the Budd Car**

This resolution authorized the City Manager to award a contract to Fort Myer Construction Corporation, 2237 33rd Street, NE, Washington, D.C. 20018, in the amount of Ninety-Five Thousand Dollars (\$95,000), with a contingency of Nine Thousand Five Hundred Dollars (\$9,500), for a total of One Hundred Four Thousand Five Hundred Dollars (\$104,500); said funds to be expended from the Capital Improvements Budget.

Motion was made by Ryan Spiegel, seconded by Henry F. Marraffa, that Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract for Additional Electrical Service for the Budd Car, be approved.

Vote: 5-0

B. Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract for the Purchase and installation of Safety Netting at Kelley Park

This resolution authorized the City Manager to enter into a contact with Net Construction, LLC, 2637 Queenstown Road, Suite A, Birmingham, Alabama 25210, in the amount of Eighty-Three Thousand Three Hundred Twelve Dollars (\$83,312); said funds to be expended from the Capital Improvements Budget.

Motion was made by Ryan Spiegel, seconded by Henry F. Marraffa, that Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract for the Purchase and installation of Safety Netting at Kelley Park, be approved.

Vote: 5-0

VI. APPOINTMENTS**A. Resolution of the City Council Confirming an Appointment by the Mayor to the Economic and Business Development Committee**

This resolution confirmed an appointment to the Economic and Business Development Committee: Neil H. Harris, 349 Main Street, Gaithersburg, Maryland 20878, two-year term.

Motion was made by Henry F. Marraffa, seconded by Cathy C. Drzyzgula, that a Resolution of the City Council Confirming an Appointment by the Mayor to the Economic and Business Development Committee, be approved.

Vote: 5-0

VII. OATH OF OFFICE**A. Oath of Office to Board of Supervisors of Elections Member**

Mayor Katz administered the Oath of Office to Eric Kellner to execute the office of the Board of Supervisors of Elections, according to the United States and Maryland Constitutions, the Laws of this State and the Gaithersburg City Charter and Code.

VIII. PRESENTATIONS**A. Proclamation of the Mayor and City Council Designating April 7-14, 2013 as "Days of Remembrance" in the City of Gaithersburg**

Mayor Katz issued a proclamation designating April 7, 2013 through April 14, 2013 as "Days of Remembrance" in the City of Gaithersburg. The City of Gaithersburg joins the United States Holocaust Memorial Museum and the United States Congress in observing the National Days of Remembrance. The Museum designated "Never Again: Heading the Warning Signs" as the theme for the 2013 observance. Resident Mina Parsont accepted the proclamation.

B. Proclamation of the Mayor and City Council Designating April 2013 as "National Autism Awareness Month" in the City of Gaithersburg

To promote awareness, Autism Speaks launched the "Light It Up Blue" campaign, a global initiative to shine a bright light on autism as a growing public health crisis. In recognition of National Autism Month, the City of Gaithersburg proclaimed April 2013 as National Autism Awareness Month. A blue floodlight will shine on City Hall in celebration. The proclamation was accepted by Local Autism Speaks Ambassador Melissa Porter.

C. Proclamation of the Mayor and City Council Designating April 2-10, 2013 as "Gaithersburg Green Week" and April 9, 2013, as "Arbor Day" in the City of Gaithersburg

Mayor Katz issued a proclamation designating April 2-12, 2013 as "Gaithersburg Green Week" and April 9, 2013 as "Arbor Day" in the City of Gaithersburg. Throughout Green Week, Gaithersburg will host a series of activities to celebrate and improve the environment, including environmental awards, cleanups, planting projects, and family events. Environmental Affairs Committee Co-Chairs Doug Wolf and Karen Rainbolt accepted the proclamation and announced the week's planned activities which are listed on the City's website at www.gaithersburgmd.gov.

D. Proclamation of the Mayor and City Council Designating April 2013 as "Volunteer Appreciation Month" in the City of Gaithersburg

The City of Gaithersburg appreciates the work and dedication of the hundreds of volunteers of all ages who work tirelessly to help Gaithersburg remain a vibrant, compassionate community. One example of exceptional volunteering has been shown by the City's Youth Centers and Student Union members. More than 300 middle and high school volunteers logged in excess of 6000 volunteer hours last year, giving back to our City through work with such projects as the Gaithersburg Community Soup Kitchen, Holiday Giving Program, Environmental Affairs projects, Asbury's Beloved Community Initiative and many more. Several students along with Maura Dinwiddie from the City's Youth Services, accepted the proclamation.

Visit the Volunteer Opportunities page on the City's website for details at www.gaithersburgmd.gov. For countywide opportunities please visit www.montgomeryserves.org.

IX. PUBLIC COMMENTS

1. Dan Fried, Rockville resident and member of the Gaithersburg Senior Center Council, expressed disappointment with the decision to postpone building of a new senior center dropping the project down on the City's list of priorities. Asked the Mayor and City Council to reconsider putting the proposed new center on the fast track.

X. FROM THE MAYOR AND CITY COUNCIL

A. Announcements

- a. Ethics Commission Alternate Position Vacancy
- b. Animal Control Board Vacancy
- c. April 2013 Upcoming Events and Activities
- d. Conduct an Executive Session on April 2, 2013
- e. Upcoming Work Session Agenda - April 8, 2013

B. Staff Correspondence - None to Date

C. Outside Correspondence - None to Date

Council Vice President Sesma

1. Thanked the numerous volunteers that serve the Gaithersburg community.
2. Congratulated the Green Award recipients and mentioned the reception held earlier in the evening.
3. Mentioned the City's support to recognize National Autism Awareness Month. Urged citizens to educate themselves on the disorder.
4. Announced that the City is seeking members to serve on the Ethics Commission. The position for one (1) full member and one (1) alternate will remain open until filled. For more information visit the City's website at www.gaithersburgmd.gov or contact City Attorney Lynn Board at 301-258-6310.

Council Member Drzyzgula

1. Attended the Accounting for Growth work group in Annapolis which is seeking to create new stormwater regulations to require measures to be taken to offset the increased pollution associated with old and new development. The primary topic discussed was how much of the pollution associated with the development should be offset.
2. Provided a letter to the Mayor and City Council addressing gun violence. During the March meeting of the Policy Board of the Metropolitan Washington Council of Governments (MWCOG) a motion was approved to endorse in its entirety the statement made by the International Association

of the Chiefs of Police. Mentioned there is concern with MWCOG not following its internal committee process on such matters. Asked the Mayor and City Council to support sending a letter to MWCOG asking for reconsideration of the motion and express concern with the internal process and addressing aspects of education and mental health. The Mayor and City Council agreed to send a letter to address the process and issues and modified language was suggested with respect to the decision not being a consensus amongst the members of the MWCOG.

3. Attended the Maryland Municipal League Montgomery County Chapter meeting with the County Council and had good dialogue with elected officials and staff from other local jurisdictions.

Council Member Marraffa

1. Announced the upcoming event and activities for the month of April 2013. For more information on all events, including hours, admission fees and purchases visit the City's website at www.gaithersburgmd.gov.
2. Wished residents a happy Easter and Passover.
3. Thanked residents for volunteering throughout the Gaithersburg community.

Council Member Spiegel

1. Echoed holiday wishes for Easter, Passover, and other festivals of faith and observances.
2. Showed his green tie with blue squares in recognition of Green Week and Autism Awareness.
3. Announced the official adoption of a portion of Shady Grove Road in his neighborhood is now part of Gaithersburg. Mentioned scheduling a cleanup for said portion of the road.
4. Mentioned the legislation activity occurring in Annapolis and the closing session coming. Reported that Gaithersburg had been extremely active in advocating the priorities of the National League of Cities and Maryland Municipal League and other cities and towns around the state. Reported on the increased gas tax and additional revenue benefiting local jurisdictions.
5. Announced a vacancy on the Animal Control Board to fill one (1) alternate representative of the Montgomery County Veterinary Medical Association or have training and/or experience in the proper training or care of animal's position. For more information visit the City's website at www.gaithersburgmd.gov or call Animal Control Director Lisa Holland at 301-258-6343.

Council Member Ashman

1. Attended the Maryland Municipal League Montgomery County Chapter meeting.
2. Attended the City's Employee Recognition Luncheon. Participated in Read Across America at Summit Hall Elementary School.
3. Provided an update on the second session in Annapolis in pursue of amendments to the State's Ethics legislation. Reported that the City will have to amend its Ethics Code to come into compliance with State laws

which the City does not support. City Attorney Board added that the State Ethics Commission send comments in December 2012 on the City's Ethics Code. The City's Ethics Commission reviewed the comments and revised the ordinance to incorporate the comments and sent back to the State for further review.

4. Announced the Gaithersburg Book Festival scheduled for May 18, 2013 on the grounds of City Hall in Olde Towne Gaithersburg from 10 a.m. to 6 p.m. For more information on the festival and more, visit the City's website at www.gaithersburgbookfestival.org.

Mayor Katz

1. Requested a motion to conduct a closed executive session.

Motion was made by Cathy C. Drzyzgula, seconded by, Ryan Spiegel, to conduct a closed session immediately following its scheduled regular meeting on Tuesday, April 2, 2013 at City Hall. The meeting is proposed to be closed pursuant to the State Government Article of the Annotated Code of Maryland Section 10-508(a)(7) to consult with counsel to obtain legal advice and Section 10-508(a)(8) consult with staff, consultants, or other individuals about pending or potential litigation. Topics to be discussed are legal advice and potential litigation.

Vote: 5-0

2. Announced the following meeting scheduled:
 - work session on Monday, April 8th, to receive a presentation from the new Branch Manager of the Gaithersburg Library and to receive the results of the Commission on Common Ownership Communities Survey. Staff was directed to inform those that received the survey.
 - regular session on Monday, April 15th.

XI. FROM THE CITY MANAGER

1. Reported on the dedication of the Children's Garden located at the Hospice Caring at Bohrer Park. The City has partnered with Hospice since 2008.
2. Referred to the City's proposed budget for FY'14 and recognized staff for their efforts to prepare the draft document. Thanked Mr. Fried, an earlier speaker for his input and urge citizens to attend the budget hearing scheduled for Monday, April 15, 2013 and the Monday, April 29 work session to provide public comment. Mentioned that difficult decisions were made for the project prioritization plan and the strategy was to budget for smaller and more achievable projects at this time. He reiterated that the budget is in draft form and can be changed. He added that the operating funding issue for the new senior center had not been resolved.

XII. ECONOMIC DEVELOPMENT UPDATE

Economic Development Director Lonergan

1. Thanked the Mayor and City Council for confirming the appointment of Neil Harris to the Economic and Business Development Committee.
2. Hosted a luncheon for the Frederick Avenue Corridor Capacity Study and 18 owners attended to dialogue with staff and the Sage Policy Group to discuss the analysis.
3. He, City Engineer Mumpower and members of the Kentlands Downtown Partnership walked Main Street to identify new locations for trash cans and bike racks.
4. Reported that the Encon Group will relocate from Kensington to Gaithersburg at the corner of East Diamond Avenue and Girard Street. The company's decision to move to Gaithersburg was due to the vicinity of the MARC station, proximity to the ICC and restaurants, upcounty clients, stronger pool of job applicants and the City's toolbox support for their build out. The new headquarters would bring over 2,000 jobs to the City of Gaithersburg.

XIII. ORDINANCES / RESOLUTIONS / REGULATIONS

A. Resolution of the Mayor and City Council Authorizing the City Manager to Execute a Grant Agreement with the Department of Business and Economic Development to Support the Costs Associated with the Frederick Avenue Corridor & Vicinity Development Capacity Study

This resolution authorized the City Manager to execute a grant agreement with the Department of Business and Economic Development (DBED) in support of the project, terms and costs associated with the Frederick Avenue Corridor & Vicinity Development Capacity Study. DBED approved an award of grant funds in the amount of Fifty Thousand Dollars (\$50,000) or Fifty percent (50%) of the cost of the project for the City to distribute and expend according to the requirements and provisions of the Grant Agreement.

Motion was made by Michael A. Sesma, seconded by Ryan Spiegel, that a Resolution of the Mayor and City Council Authorizing the City Manager to Execute a Grant Agreement with the Department of Business and Economic Development to Support the Costs Associated with the Frederick Avenue Corridor & Vicinity Development Capacity Study, be approved.

Vote: 5-0

B. Resolution of the Mayor and City Council Approving the Number and Location of Polling Places for the 2013 City Election

This resolution approved the six locations (City Hall, Izaak Walton League, Kentlands [Mormon Church], Villa Ridge, Potomac Oaks, and Asbury) for polling places and the boundaries of each voting area as recommended by the Board of Supervisors of Elections (BOSE) on January 16, 2013. Section 6C-3.1(3) of the City Code provides that the BOSE shall make recommendations to the Mayor and

City Council concerning the number and location of election polling places.

Motion was made by Cathy C. Drzyzgula, seconded by Michael A. Sesma, that Resolution of the Mayor and City Council Approving the Number and Location of Polling Places for the 2013 City Election, be approved.

Vote: 5-0

C. Introduction of an Ordinance to Adopt the City Budget for the Fiscal Year July 1, 2013, through June 30, 2014, and Levying an Ad Valorem Tax on all Assessable Property Within the City of Gaithersburg, Maryland

Finance and Administration Director Belton introduced the proposed Ordinance for the City Budget and Levying an Ad Valorem Tax on all Assessable Property Within the City of Gaithersburg, Maryland. Announced that the Budget public hearing will be held on April 15, 2013, anticipated work session on April 29, and if necessary, April 30, 2013 in the City Hall Council Chambers.

Motion was made by Michael A. Sesma, seconded by Jud Ashman, that the proposed Ordinance to Adopt the City Budget for the Fiscal Year July 1, 2013, through June 30, 2014, and Levying an Ad Valorem Tax on all Assessable Property Within the City of Gaithersburg, Maryland, be introduced.

Vote: 5-0

D. Notification of a Public Hearing to Establish a Constant Yield Tax Rate for the City of Gaithersburg for Tax Year Beginning July 1, 2013 (Fiscal Year 2013)

Finance and Administration Director Belton presented the Constant Yield Tax Rate for the City of Gaithersburg for Tax Year Beginning July 1, 2013, to be considered. The City of Gaithersburg is proposing a tax rate of \$.2620 which will exceed the \$.2609 Constant Yield Tax Rate, therefore requiring a public hearing. The public was notified of the hearing scheduled for April 15, 2013.

XIV. POLICY DISCUSSION

A. SDP-1641-2012 CROWN HOA FACILITY: The applicant requests approval of the schematic development plan, SDP-1641-2012, per annexation X-182 and Sketch Plan Z-315, known as the Crown HOA Facility (Partial Parcel 833) in Gaithersburg, Maryland. The plan proposes a community HOA facility and amenity park with associated Road Code Waiver, RC-1701-2012.

Planner Robinson presented the Schematic Development Plan and request for a road code waiver. A joint public hearing was conducted on February 4, 2013. The Planning Commission recommended approval with one condition during their March 20, 2013 meeting. The Mayor and City Council's record closed at 5 p.m. on March 21, 2013.

Motion was made by Michael A. Sesma, seconded by Jud Ashman, that SDP-1641-2012, a Resolution of the Mayor and City Council of Gaithersburg Granting Approval of the Schematic Development Plan, Known as the Crown Property HOA Facility, for Approximately 2.35 Acres of Property Zoned Mixed Use Development, be approved.

Vote: 5-0

Included in the application is the requested road code waiver for the one block extension of Crown Park Avenue, serving the HOA facility.

Motion was made by Henry F. Marraffa, seconded by Jud Ashman, that RC-1701-2012, a Resolution of the Mayor and City Council Granting Approval of Road Code Waivers for Variable Road Sections for Crown Park Avenue Extended in Neighborhood 3 of the Crown Development, be approved.

Vote: 5-0

XV. CONSOLIDATED POLICY DISCUSSION

- A. **ASK-1746-2013 - This is an application for approval of an Amendment to Sketch Plan, in conjunction with Schematic Development Plan SDP-1747-2013. The property is located at 16331 Shady Grove Road in the City of Gaithersburg, Maryland. The plan proposes a 25,000-square foot Automotive Sales Center and a 225,000-square foot Office/Commercial/ Restaurant Building on 13.66 acres of land located in the MXD (Mixed Use Development) Zone.**

SDP-1747-2013 - This is an application for approval of Schematic Development Plan, in conjunction with Amendment to Sketch Plan ASK-1746-2013. The property is located at 16331 Shady Grove Road in the City of Gaithersburg, Maryland. The plan proposes a 25,000-Automobile Sales Center on 10.07 acres of land located in the MXD (Mixed Use Development) Zone.

Community Planning Director presented the Sketch Plan and Schematic Development Plan. The consolidated joint public hearing was held on February 19, 2013. The record for this application was held open until March 21, 2013. The Planning Commission on March 20, 2013, recommended approval of the application with the following four (4) conditions:

1. Prior to final site plan, the applicant shall work with City and County staff to finalize the requirements of the January 29, 2013, letter and March 20, 2013 e-mail from Montgomery County Department of Transportation (MCDOT);
2. Prior to the issuance of a site development permit, the applicant shall obtain a permit from Montgomery County for the construction of an eight-foot sidewalk parallel to Shady Grove Road as required by MCDOT;
3. The style of monument sign may be allowed to be twelve (12) feet in height from the finished grade of the street as shown in Exhibit #17 of SDP-1747-2013, subject to Planning Commission approval at Final Site Plan; and

4. The parking aisles in the vehicle display area shall be allowed to be twenty (20) feet in width as shown on Exhibit #49.

Motion was made by Jud Ashman, seconded by Michael A. Sesma, that a Resolution of the Mayor and City Council of the City of Gaithersburg Granting Approval of Amendment to Previously Sketch Plan Application X-184 and Approving a New Sketch Plan Identified as Application ASK-1746-2013, for 13.66 Acres of Land in the MXD (Mixed Use Development) Zone, in Accordance with § 24-198 (Map Amendments) and §§ 24-160d.9(a), 24-160d.10(a) and 24-160D.11 of the City Code. The Property is Located at 16331 & 16401 Shady Grove Road, Gaithersburg, Maryland, be approved.

Vote: 5-0

Motion was made by Cathy C. Drzyzgula, seconded by Ryan Spiegel, that a Resolution of the Mayor and City Council of Gaithersburg Granting Approval of Schematic Development Plan SDP-1747-2013, Known as Carmax Auto Superstores, Inc., for Approximately 10.07 Acres of Land at 16331 & 16401 Shady Grove Road in the Mixed Use Development (MXD) Zone, Gaithersburg, Maryland, be approved.

Vote: 5-0

XVI. FROM THE CITY ATTORNEY / OTHER STAFF

XVII. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at approximately 8:50 p.m.

Respectfully submitted,
Doris R. Stokes
Municipal Clerk